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Date: DECEMBER 9, 2005

To: EXAMINER SERROU, A.
U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: AUS920010283US1 (9000/37)

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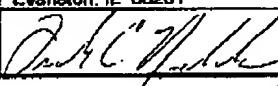

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	Application Number	09/864,120
	Filing Date	MAY 24, 2001
	First Named Inventor	KEVIN R. HOLUBA
	Group Art Unit	2654
Examiner	SERROU, A.	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Status Letter <input type="checkbox"/> One-Month Petition for Extension of Time Request (dup) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement, PTO-1449 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Assignment Papers <input type="checkbox"/> Drawing Sheets <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Brief <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0447 (IBM CORPORATION). A duplicate copy of this sheet is enclosed. <input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 09-0447 (IBM CORPORATION). A duplicate copy of this sheet is enclosed.

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Total:		Minus		0	x \$25=	0		x \$50=	
Indep.		Minus		0	x \$100=	0		x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=	—		+ \$360=	
					total add'l fee	\$ 0		total add'l fee	\$ 0

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Firm or Individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
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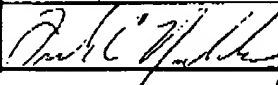
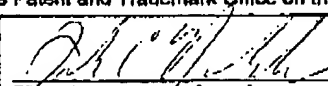
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					total add'l fee	\$ 0		total add'l fee	\$ 0

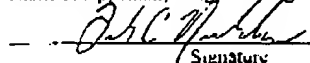
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Name of Appellant, assignee or registered representative


Signature

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PATENT
Case No. AUS920010283US1
(9000/37)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

KEVIN R. HOLUBAR, ET AL.

Serial No.: 09/864,120

Filed: MAY 24, 2001

Title: METHOD AND SYSTEM FOR
TRANSLATION MANAGEMENT OF
SOURCE LANGUAGE TEXT PHRASES

Examiner: SERROU, A.

Group Art Unit: 2654

Conf. No.: 1468

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22202-1450

Dear Sir:

Appellants respectfully present their Brief on Appeal as follows:

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1. **REAL PARTY IN INTEREST**

The real party in interest is assignee INTERNATIONAL BUSINESS MACHINES CORPORATION, a corporation organized and existing under the laws of the State of New York, USA and located at New Orchard Road, Armonk, New York 10504, USA.

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2. **RELATED APPEALS AND INTERFERENCES**

Appellant and the undersigned attorneys are not aware of any appeals or any interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS

Claims 1 - 30 are currently pending in the application and stand finally rejected. No amendments have been made, and no amendments have been entered. Claims 6-9 stand rejected under 35 U.S.C. §102(e) as anticipated by United States Patent 6,728,950 to Davis ("Davis"). Claims 1, 11, and 21 stand rejected under 35 U.S.C. §103(a) as unpatentable over Davis in view of United States Patent 6,360,358 to Elsbree ("Elsbree"). Claims 2-4, 12-14, and 22-24 stand rejected under 35 U.S.C. §103(a) as unpatentable over Davis in view of Elsbree in view of United States Patent 5,193,191 to McKeeman ("McKeeman"). Claims 10,20, and 30 stand rejected under 35 U.S.C. §103(a) as unpatentable over Davis. All claims are on appeal. See, the Appendix.

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4. **STATUS OF AMENDMENTS**

No amendments have been made, or entered, in the application.

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5. SUMMARY OF CLAIMED SUBJECT MATTER

The invention provides a method of managing a translation of a master text file. The method includes storing S44 a first source language text phrase as a first entry within a database 26 and storing S54 a target language text phrase as a translated version of the first source language text phrase within the database 26 after a storage of the first source language text phrase within the database. The method further stores S64 a second source language text phrase as a modified version of the first source language text phrase within the database after a storage of the first source language text phrase within the database. The method communicates S88 a notification indicating the target language text phrase is an incorrect translation when the second source language text phrase is stored within the database after a storage of the target language text phrase within the database.

Another aspect of the invention provides a method for managing a master text file including a source language text phrase. The method includes storing S44 the source language text phrase as a first entry within a database 26 and importing S52 a translated text file corresponding to the master text file, the translated text file including one or more target language text phrases. Each target language text phrase is stored S54 as an individual entry within the database 26. A notification indicating the translated text file is an incomplete translation of the master text file is communicated S88 when all of the target language text phrases fail to correspond to the source language text phrase.

See pages 8-15 of the specification, and FIGS. 2-5.

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6. **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

- A. Were claims 6-9 properly rejected under 35 U.S.C. §102(e) as anticipated by United States Patent 6,728,950 to Davis?
- B. Were claims 1, 11, and 21 properly rejected under 35 U.S.C. §103(a) as unpatentable over Davis in view of Elsbree?
- C. Were claims 2-4, 12-14, and 22-24 properly rejected under 35 U.S.C. §103(a) as unpatentable over Davis in view of Elsbree in view of McKeeman?
- D. Were claims 10,20, and 30 properly rejected under 35 U.S.C. §103(a) as unpatentable over Davis?

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7. ARGUMENTS

A. Claims 6-9, 16-19, and 26-29 were rejected as anticipated by Davis

The rejection of claims 6-9, 16-19, and 26-29 as anticipated under 35 U.S.C §102(e) over Davis is traversed. In order to maintain this §102(e) rejection, each and every element of the claimed invention must be disclosed in as great detail by the reference. Because the reference does not disclose each and every element, this rejection must fall.

At a minimum, Davis does not disclose "importing a translated text file corresponding to the master text file" as claimed in claims 6, 16, and 26. (emphasis added). Rather, Davis discloses a method and apparatus for translating between source and target code. See, the title of Davis – "METHOD AND APPARATUS FOR TRANSLATING BETWEEN SOURCE AND TARGET CODE."

Notably, the Examiner fails to indicate exactly where in Davis such a disclosure is made, instead citing generally to the *existence* of translated text files at column 4, lines 40-42. However, Davis does not teach *importing the translation text file* corresponding to the master text file. Instead, the translation file 28 of Davis is the result of the method disclosed by Davis in FIG. 2. See, Davis, FIG. 2, column 7, lines 23-67. "In this way, the source file 24 is efficiently and accurately translated into the translation file 28" (column 7, lines 65-67).

In other words, Davis discloses a method intended to create an accurate translation (see column 7, lines 65-67), while the claimed method manages translation of a master text file by importing an *already translated* text file corresponding to the master text file and performing additional steps.

Therefore, Davis cannot anticipate independent claims 6, 16, and 26, nor claims 7-9, 17-19, and 27-29 depending from claims 6, 16, or 26 respectively. Withdrawal of the rejections to claims 6-9, 16-19, and 26-29 is requested.

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B. Claims 1, 11, and 21 were rejected as unpatentable over Davis in view of Elsbree

The rejection of claims 1, 11, and 21 as unpatentable is traversed. In order to maintain this rejection, each and every element of the claims must be taught or suggested by the references, alone or in combination; there must be a motivation to combine the references; and the references must be analogous art.

Appellants note that the Examiner fails to illustrate how the similarities in structure and function of Davis and Elsbree render the references analogous art. While it is true that PTO classification is not a *sine qua non* of analogous art, disjoint in structure and function prevents references from being analogous art. Because the references are non-analogous art, combining their teachings is improper and cannot support a §103(a) rejection.

Furthermore, there is no motivation to combine the references taught by Davis in view of Elsbree, rendering the Examiner's rejection flawed for another reason. The Examiner correctly notes that the level of skill in the art does not act as a bridge over gaps in the substantive presentation of an obviousness case. However, the Examiner must prove that the teachings of Davis and Elsbree would suggest the claim limitations, and a conclusory statement cannot satisfy the Examiner's burden.

Furthermore, the teachings of Davis directly teach away from the claimed elements. It cannot be credibly argued that a method of accurately translating text (i.e. Davis' method and apparatus for translating between source and target code) would teach methods of managing a translation of a master text file including importation of a previously translated file.

Withdrawal of the rejections to claims 1, 11, and 21 is requested.

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C. Claims 2-4, 12-14, and 22-24 were rejected as unpatentable over Davis in view of Elsbree and further in view of McKeeman

The rejection of claims 2-4, 12-14, and 22-24 as unpatentable is traversed. In order to maintain this rejection, each and every element of the claims must be taught or suggested by the references, alone or in combination; there must be a motivation to combine the references; and the references must be analogous art.

Additionally, claims 2-4, 12-14, and 22-24 depend directly or indirectly from claims 1, 11, or 21, and are therefore patentable over Davis in view of Elsbree in view of McKeeman for at least the same reasons as above.

Withdrawal of the rejections to claims 2-4, 12-14, and 22-24 is requested.

D. Claims 5, 15, and 25 were rejected without statutory citation

The rejection of claims 5, 15, and 25 is traversed. Claims 5, 15, and 25 depend from claims 1, 11, or 21, respectively, and are therefore patentable over the prior art for at least the same reasons. Appellants specifically request that the Examiner provide a citation to law to support this rejection.

The Appellants seasonably traversed (in the response filed Sept. 29, 2005) the Examiner's statement that "it would have been to a person of ordinary skill in the art" (sic) "in order to indicate a need for adding new translated portions in the target text." Despite the traversal, the Examiner provided no evidence in support of the allegations, and therefore, the Examiner's allegations remain unsupported.

Withdrawal of the rejections to claims 5, 15, and 25 is requested.

E. Claims 10, 20, and 30 were rejected as unpatentable over Davis

The rejection of claims 10, 20, and 30 is traversed. Claims 10, 20, and 30 depend from claims 6, 16, or 21, respectively, and are therefore patentable over the prior art for at least the same reasons.

Withdrawal of the rejections to claims 5, 15, and 25 is requested.

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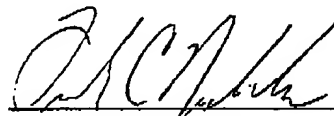
CONCLUSION

The Appellants respectfully submit that claims 1-30 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: **December 9, 2005**

Respectfully submitted,
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CLAIMS APPENDIX

1. A method for managing a translation of a master text file, said method comprising:
 - storing a first source language text phrase as a first entry within a database;
 - storing a target language text phrase as a translated version of the first source language text phrase within the database after a storage of the first source language text phrase within the database;
 - storing a second source language text phrase as a modified version of the first source language text phrase within the database after a storage of the first source language text phrase within the database;
 - communicating a notification indicating the target language text phrase is an incorrect translation when the second source language text phrase is stored within the database after a storage of the target language text phrase within the database.
2. The method of claim 1, further comprising:
 - storing a first timestamp within the database that indicates a date and a time of the storage of the target language text phrase within the database; and
 - storing a second timestamp within the database that indicates a date and a time of the storage of the second source language text phrase within the database.

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3. The method of claim 2, further comprising:
comparing the first timestamp and the second timestamp; and
setting a flag within the database when a comparison of the first timestamp
and the second timestamp indicates a storage of the second source language text phrase
within the database occurred after the storage of the target language text phrase within the
database.
4. The method of claim 3, wherein
said setting of the flag is communicated as the notification.
5. The method of claim 2, further comprising:
storing a copy of the second source language text phrase in a translated text
file containing the target language text phrase when a comparison of the first timestamp and
the second timestamp indicates a storage of the second source language text phrase within the
database occurred after the storage of the target language text phrase within the database.

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6. A method for managing a master text file including a source language text phrase, said method comprising:
 - storing the source language text phrase as a first entry within a database;
 - importing a translated text file corresponding to the master text file, the translated text file including one or more target language text phrases;
 - storing each target language text phrase as an individual entry within the database;
 - communicating a notification indicating the translated text file is an incomplete translation of the master text file when all of the target language text phrases fail to correspond to the source language text phrase.
7. The method of claim 6, further comprising:
 - storing an identification number corresponding to the source language text phrase within the database.
8. The method of claim 7, further comprising:
 - setting a flag within the database when each individual entry of target language text phrases fails within the database to include the identification number.
9. The method of claim 8, wherein
 - said setting of the flag is communicated as the notification.

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10. The method of claim 7, further comprising:
storing a copy of the source language text phrase in the translated text file
when each individual entry of target language text phrases within the database fails to include
the identification number.

11. A system for managing a translation of a master text file, said system
comprising:
a database;
a computer;
wherein said computer is operable to control a storage of a first source
language text phrase as a first entry within said database;
wherein said computer is further operable to control a storage of a target
language text phrase as a translated version of the first source language text phrase within
said database after a storage of the first source language text phrase within said database;
wherein said computer is further operable to control a storage of a second
source language text phrase as a modified version of the first source language text phrase
within said database after a storage of the first source language text phrase within said
database; and
wherein said computer is further operable to communicate a notification
indicating the target language text phrase is an incorrect translation when the second source
language text phrase is stored within said database after a storage of the target language text
phrase within said database.

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12. The system of claim 11, wherein:

said computer is further operable to control a storage of a first timestamp within said database that indicates a date and a time of the storage of the target language text phrase within said database; and

said computer is further operable to control a storage of a second timestamp within said database that indicates a date and a time of the storage of the second source language text phrase within said database.

13. The system of claim 12, wherein:

said computer is further operable to compare the first timestamp and the second timestamp; and

wherein said computer is further operable to control a setting of a flag within said database when a comparison of the first timestamp and the second timestamp indicates a storage of the second source language text phrase within said database occurred after the storage of the target language text phrase within said database.

14. The system of claim 13, wherein

said computer is further operable to communicate a setting of the flag as the notification.

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15. The system of claim 12, wherein:

said computer is further operable to control a storage of a copy of the second source language text phrase in a translated text file containing the target language text phrase when a comparison of the first timestamp and the second timestamp indicates a storage of the second source language text phrase within said database occurred after the storage of the target language text phrase within said database.

16. A system for managing a master text file including a source language text phrase, said system comprising:

a database;

a computer;

wherein said computer is operable to control a storage of the source language text phrase as an individual entry within said database;

wherein said computer is further operable to import a translated text file corresponding to the master text file, the translated text file including one or more target language text phrases;

wherein said computer is further operable to control a storage of each target language text phrase as an individual entry within said database; and

wherein said computer is further operable to communicate a notification indicating the translated text file is an incomplete translation of the master text file when all of the target language text phrases fail to correspond to the source language text phrase.

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17. The system of claim 16, wherein:
said computer is further operable to control a storage of an identification number corresponding to the source language text phrase within the database.
18. The system of claim 17, wherein:
said computer is further operable to control a setting a flag within said database when each individual entry of target language text phrases within said database fails to include the identification number.
19. The system of claim 18, wherein:
said computer is further operable to communicate a setting of the flag as the notification.
20. The system of claim 17, wherein:
wherein said computer is further operable to control a storage of a copy of the source language text phrase in the translated text file when each individual entry of target language text phrases within said database fails to include the identification number.

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21. A computer program product in a computer readable medium for managing a translation of a master text file, said computer program product comprising:

computer readable code for storing a first source language text phrase as a first entry within a database;

computer readable code for storing a target language text phrase as a translated version of the first source language text phrase within the database after a storage of the first source language text phrase within the database;

computer readable code for storing a second source language text phrase as a modified version of the first source language text phrase within the database after a storage of the first source language text phrase within the database;

computer readable code for communicating a notification indicating the target language text phrase is an incorrect translation when the second source language text phrase is stored within the database after a storage of the target language text phrase within the database.

22. The computer program product of claim 21, further comprising:

computer readable code for storing a first timestamp within the database that indicates a date and a time of the storage of the target language text phrase within the database; and

computer readable code for storing a second timestamp within the database that indicates a date and a time of the storage of the second source language text phrase within the database.

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23. The computer program product of claim 22, further comprising:
computer readable code for comparing the first timestamp and the second
timestamp; and
computer readable code for setting a flag within the database when a
comparison of the first timestamp and the second timestamp indicates a storage of the second
source language text phrase within the database occurred after the storage of the target
language text phrase within the database.

24. The computer program product of claim 23, wherein
said computer readable code for setting of the flag is communicated as the
notification.

25. The computer program product of claim 22, further comprising:
computer readable code for storing a copy of the second source language text
phrase in a translated text file containing the target language text phrase when a comparison
of the first timestamp and the second timestamp indicates a storage of the second source
language text phrase within the database occurred after the storage of the target language text
phrase within the database.

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26. A computer program product for managing a master text file including a source language text phrase, said computer program product comprising:
- computer readable code for storing the source language text phrase as a first entry within a database;
 - computer readable code for importing a translated text file corresponding to the master text file, the translated text file including one or more target language text phrases;
 - computer readable code for storing each target language text phrase as an individual entry within the database;
 - computer readable code for communicating a notification indicating the translated text file is an incomplete translation of the master text file when all of the target language text phrases fail to correspond to the source language text phrase.
27. The computer program product of claim 26, further comprising:
- computer readable code for storing an identification number corresponding to the source language text phrase within the database.
28. The computer program product of claim 27, further comprising:
- computer readable code for setting a flag within the database when each individual entry of target language text phrases fails within the database to include the identification number.

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29. The computer program product of claim 28, wherein
said computer readable code for setting of the flag is communicated as the
notification.

30. The computer program product of claim 27, further comprising:
computer readable code for storing a copy of the source language text phrase
in the translated text file when each individual entry of target language text phrases within
the database fails to include the identification number.

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EVIDENCE APPENDIX

Appellants entered no evidence pursuant to §1.130, 1.131 or 1.132, and the Examiner entered no evidence that was relied upon by Appellants.

RELATED PROCEEDINGS APPENDIX

There are no copies of related decisions or proceedings.